595

SUPREME COURT OF THE UNITED STATES.

No. 117.

THE UNITED STATES, APPELLANTS,

vs.

RAFAEL CASTRO.

APPEAL FROM THE DISTRICT COURT U. S. FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

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GIDEON, Print.

Transcript of the proceedings in case No. 620—*Rafael Castro, claimant*, vs. *The United States, defendant—for the place named Aptos.*

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the private land claims in the State of Cal'a.

Be it remembered, that on this twenty-fourth of February, anno Domini one thousand eight hundred and fifty-three, before the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Franciso, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of Rafael Castro, for the place named "Aptos," was presented, and ordered to be filed and docketed with No. 620, and is as follows, to wit:

(Vide page 3 of this Transcript.)

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

SAN FRANCISCO, *Aug.* 13, 1853.

In case No. 620, Rafael Castro, for the place named "Aptos," the deposition of Antonio Maria Pico, a witness in behalf of the claimant, taken before Commissioner Alpheus Felch, with document marked No. 1, A. F., annexed thereto, was filed.

(Vide page 5 of this Transcript.)

SAN FRANCISCO, *Oct.* 27, 1853.

In the same case, the deposition of José A. Bolcoff, a witness in behalf of the claimant, taken before Commissioner Alpheus Felch, was filed.

(Vide page 6 of this Transcript.)

SAN FRANCISCO, *May* 9, 1853.

Case No. 620 was called, submitted on briefs, and taken under advisement.

SAN FRANCISCO, *May* 16, 1854.

In the same case, Commissioner Alpheus Felch delivered the opinion of the board confirming the claim.

(Vide page 61 of this Transcript.)

SAN FRANCISCO, *Aug.* 15, 1854.

In the same case, on motion of the U. S. law agent, the following order was made, to wit:

(Vide page 64 of this Transcript.)

Petition.

To the honorable the Board of U. S. L. Commissioners, appointed to settle private land claims in California:

The petition of Rafael Castro respectfully represents, that on or about the 16th day of November, 1833, José Figueroa, then governor of California, in the name of the Mexican nation, by virtue of the laws of Mexico in force, the various laws and usages of the country affecting grants of lands in California, granted in full property unto your petitioner the tract of land and rancho called Aptos, situated in the present county of Santa Cruz, or Monterey, containing about one league of land; reference being had to the papers and map relating to the grant of land for a more particular description thereof.

That said grant was duly approved by the departmental assembly, and your petitioner was placed in juridical possession of said lands by the proper officer having jurisdiction of such subject-matters, the original papers showing the facts above stated, and now in the possession of your petitioner, ready to be produced and proved before your hon'ble board.

And your petitioner further shows, that about the year 1840 an extension of one league was made to his rancho and lands, hereinbefore described, by the then governor of California. That your petitioner believes the grant and papers, relating to said extension, are among the archives now in the possession and custody of the U. S. Surveyor General for California, and so soon as the same can be procured and prepared, your petitioner prays leave to file as part of this petition.

There is no conflicting claims to said land, known to your petitioner; and your petitioner has occupied said lands and rancho from the date of said grant until the present time. All of which matters are respectfully submitted for such action as the justice and nature of this claim require.

E. O. CROSBY, *of Counsel.*

Filed in office, February 24, 1853.

GEO. FISHER, *Sec'y.*

Deposition of A. M. Pico.

OFFICE OF THE COMMISSIONERS OF CALIFORNIA LAND CLAIMS,
SAN FRANCISCO, *August* 13, 1853.

This day, before Commissioner Alpheus Felch, came Antonio Maria Pico, a witness in behalf of claimant, case No. 620, Rafael Castro, who, after being duly sworn, deposed as follows:

Question by Mr. Crosby, Attorney for Claimant.

1st Question. What are your name, age, and place of residence?

Answer. My name is Antonio Maria Poco; my age forty-three years, and I reside at San José, Santa Cruz county, California.

2d Question. Look on the paper now shown to you, marked

exhibit No. 1, with the initials A. F., purporting to contain a title given by José Figueroa to Rafael Castro, on the sixteenth of November, 1833, a tract of land called Aptos, and the act of approval of the said title by the territorial deputation; and the papers of judicial possession of the said land, with the order from Manuel Jimeno, of November 9th, 1840, for an extension of said tract of land, which documents are attached to this deposition, and say which, if any, of the signatures appearing therein you recognise as genuine.

Answer. I have looked therein, and recognise as genuine the following signatures on paper, to wit: José Figueroa, Agustin V. Zamorano, Rafael Castro, José Antonio Bolcoff, and Manuel Jimeno. I have seen all these persons write, and know their signatures well. I have no doubt of their genuineness in all the places in which they appear on said documents.

3d Question. Do you know the rancho called Aptos, its situation and its occupation by Rafael Castro, the claimant?

Answer. I know the rancho of Aptos well, and been on it. It is situated near the town of Santa Cruz, formerly called Branciforte. It has been occupied by Rafael Castro ever since he obtained the grant of the land, and kept cattle on always. I remember distinctly when he obtained the grant, but cannot tell the year. He went on the land immediately afterwards. It is a rancho which has long been in a high state of improvement, and well regulated; it has several houses on it, with gardens and orchards. Much of the land is cultivated, and there are a good many cattle kept on it.

Question by Mr. Greenhow, assistant Law-Agent.

1st Question. Does this rancho lay within ten leagues of the sea?

Answer. It is situated right on the shore of the sea.

ANTONIO MARIA PICO.

This testimony was given in the Spanish language; Mr. Greenhow, by consent of parties, acting as interpreter.

Sworn and subscribed before me, at San Francisco, this thirteenth day of August, A. D. 1853.

ALPHEUS FELCH, *Commissioner.*

Filed in office, Aug. 13th, 1853. GEO. FISHER, *Sec'y.*

Deposition of José A. Bolcoff.

OFFICE OF THE BOARD OF COMMISSIONERS, &c., &c.

This day, before Com'r Alpheus Felch, came José A. Bolcoff, a witness in behalf of claimant, Rafael Castro, No. 620, who, after being duly sworn, deposes as follows. This deposition was given in the Spanish language, and interpreted by the secretary.

1st Question by Mr. Crosby, Att'y for Claimant.

1st Question. What are your name, age, and place of residence?

Answer. My name is José A. Bolcoff; my age is fifty-six years, and I reside in the county of Santa Cruz, California.

you, and state if you recognise the Arroyo Aptos as the same marked "Arroyo Aptos" in the first map referred to in this deposition; and whether the said "Arroyo Aptos" is a well-known natural object.

Answer. It is the same arroyo on both the maps. The upper part of it towards the head has very steep banks; the lower part is not so steep and is more like a river; it is a permanent stream.

12th Question. State about how far it is from the mouth of the Arroyo Aptos to the northeasterly corner of said Rancho Aptos, where you commenced your measurement at the time of giving juridical possession.

Answer. I do not know; I did not pay attention to it.

Question by Mr. Greenhow, Ass. Law Agent.

1 Question. How many lines did you measure when you gave the juridical possession?

Answer. Four; I measured them with a cord; I refer to the grant.

JOSE A. BOLCOFF.

Sworn to and subscribed before me, this 27th of October, A. D. 1853.

ALPHEUS FELCH, *Commissioner*.

Filed in office, Oct. 27th, 1853.

GEO. FISHER, *Sec'y*.

Jurisdicion de Branciforte. } No. 10. { Año de 1833.

Espediente sobre el parage nombrado "Aptos," solicitado por su beneficio y cultivo por Rafael Castro.

(79.)

Sello Tercero, Dos Reales.

Habilitado provicionalmente por la administracion de la aduana maritima de Monterey, para los años de mil ochocientos treinta y tres, mil ochocientos treinta y cuatro.

FIGUEROA. JOSE RAFAEL GONZALES.

Sr. Gefe Superior Politico:

El ciud'o Rafael Castro, vecino de la villa de Branciforte, natural de este territorio, ante la notaria justificacion de V. S., como mejor el d'ho se presente comparece y dice; que habiendo solicitado en el año de 1835, el paraje nombrado Aptos pa. ocupar lo con sur cortes bienes y hacer a favor necesaria por decreto del S'or Don Manuel Victoria, se le concedio al suplicante provicionalmente pa. su cultivo y aprobachemiento, como la justifica la solicitud q. origal'te acompaña y habiendo lo asi ocupado y mantenido en el cosa corral, labores y como ciento cincuenta cabezas de ganado bacuno, y siendolo indispensable pa. poseer lo libre y pacificamente no puede menos de manifestar á V. S. que el terreno que solicita y como esplica el diseño adjunto colinda con la costa, con el rancho del ciud'o Joaquin Castro, con la sierra y con un

barranco de senjoro, que nase de esto, cuyo terreno hará una legua cuadrada pasio por un costado el arroyo percutinente nombrado "Aptos" donde unicamente pueden beber los ganados. Entre este y el sanjon tienen las tierras de labor que son de temporal y á la espalda o lado opuesto á la costa lo mas es lomeria muerta y montanosa y sirven para el sombrio de los ganados. Dista este terreno tres leguas de la espresada villa desde d'ho sanjon: y hantes de poseer lo se halloba baldio. P. t. A V. S. debidamente acompaña á V. S. un testimonio de la licencia absoluta que obtuvo, siendo cabo de la compania de este puerto en lo que sirvio con honradez mas de siete años, á la satisfacion de sus gefes en vistos de sus servicios y de lo demas que ha referido suplico á la verta justificacion de V. S. le conceda en propiedad el parage de Aptos en obsequio de su familia.

Por tanto rendidamente suplico se digne aceder á su solicitud en lo que recibiré merced. Jurando no ser de malicia y lo necesario, etc., etc.

Monterey, Junio 15, de 1833.

RAFAEL CASTRO.

MONTEREY, *Junio* 19, *de* 1833.

De conformidad con las leyes de la materia informe el ayuntamiento de la villa de Branciforte, si el interesado en esta instancia obtiene todos los requisitos prevenidos, para ser atendido en su solicitud, si el terreno que pretende esta comprendido en las veinte leguas limitrofes ó diez litorales que espresa la ley de 18 de Agosto, de 1824, si no pertenece ó pertenece á propiedad, particular, corporacion ó pueblo, si se conoce por valdio si la cantidad de terreno es de regadio temporal ó de abrevadero con todo lo demas que sea conveniente a illustrar la materia. El S. gefe superior politico de territorio asi lo mandé, decreté y firmé, de que doy fée.

FIGUEROA.

AGUSTIN V. ZAMORANO, *S'rio.*

Evacuado el informe que se pide al ayuntam'to en la antecedente decreto pasara este espediente al P're M'tro de S'ta Cruz, para que informe lo que se le ofresca.

FIGUEROA.

AGUSTIN V. ZAMORANO, *Secretario.*

Sello Tercero, Dos Reales.

Habilitado provicionalmente por la administracion de la aduana maritima de Monterey, para los años de mil ochocientos treinta y tres, y mil ochocientos treinta y cuatro.

FIGUEROA. JOSE RAFAEL GONZALES.

Visto el antecedente expediente y decreto que informe de este Il'tre Ayuntamiento digo no pertenecia a esta micion de Sta. Cruz, ni tener que informar cuanto respeta á dho. sitio.

FRANC'O ANT'O ROBLES.

Sello Cuarto, Una Cuartilla.

Habilitado provicionalmente por el gobierno provicional de la Alta California, para el año de 1831.

VICTORIA. BANDINI.

Rafael Castro, cabo licencia de la compañia de caballeria del puerto de Monterey, en la villa de Branciforte, puesto ante la superioridad de V. S. con la mayor subordinacion y respecto que debe ante V. E. S. parese y dise que allando se asi en licenciado y no teniendo hendonde tener sus pocos bienes que posee sin introdusion de otros bienes, y allandose hacer parage sin bienes inmediato á su espresada villa nombrada Hantos á V. S. suplico se digne concederle lo para poner sus bienes siembras y cosa y por tanto. A V. S. rendidamente suplico probeer á su fabor como combenga gracia y merced que espera de su merced la justificacion de V. S.

En la villa de Branciforte, á 28 de Agosto, de 1837.

RAFAEL CASTRO.

MONTEREY, *Setiembre* 6, *de* 1831.

Conceda al interesado provicionalmente el terreno que solicita para su utilidad bajo la primera circumstancia de mantenerlo por si en estado de cultivo y aprovechiam'to.

VICTORIA.

Sello Cuarto, Una Cuartilla.

Habilitado provisionalmente por la comicion provisional de la Alta California, para el año de 1834.

VICTORIA. BANDINI.

Sertifico ser cierto allarse, el parage de Aptos sin bienes pues solo en tiempo de el cases de pastos pueden pasar los bienes y el besindario, á la villa y igualmente sertifico que no tiene tierras á la res mas de para ocho fanegas y trigo y para cosa de seis o siete almades, y mas ai distancia de la villa tres leguas y para que conste pa. los fines q'l combengo doy esto sertificado en la villa de Branciforte, como juez de dha. jurisdicion á 28 de Agosto, de 1837.

JOAQUIN CASTRO.

Sello Tercero, Dos Reales.

Habilitado provicionalmente por la administracion de la aduana maritima de Monterey, para los años de mil ochocientos treinta y tres, y mil ochocientos treinta y cuatro.

FIGUEROA. JOSE RAFAEL GONZALES.

El ciudadano José Maria Echenandia, teniente coronel de Indigeneros, comandante general, inspector y gefe superior politico de la Alta California:

Por lo presente concedo licencia absoluta á Rafael Castro, cabo de la compañia de caballeria permanente de Monterey, por haberlo solicitado

y haberselo admitido el remplaso que presento. Por tanto, mando al capitan ó comandante de la espresada compañia le dé de baja en la primera revista firmandole su adjusto respectivo y sentando en esta certificada su filiacion.

Dado en Monterey, á catorse de Octubre, de mil ochocientos treinta.

JOSE MARIA DE ECHEANDIA,
Compañia de cabelleria del Presidio de Monterey.

Filiacion—Pres—Palgados—Linea.

Rafael Castro, hijo de Joaquin y de Maria Antonio Amador, natural de la villa de Branciforte, dependiente del corregimiento de Monterey, y avecindado en dicha villa, su oficio labrador, su estara lineo piés tres pulgados y dies lineas su edad veinte años, su religion C. A. R., sus señales estan color rasado pelo y rejas negos; habia regular ojos pardos varas lampino; sento plasa runtan'te por diez años en el presidio de Monterey, el dia veinte y seis de Abril, del año de mil ochocientos veinte y tres, y se le legeron las penas que previenen la ordenanza y addiciones á ella y para que conote hizo la señal de la cruz, quedando advertido de que es la justificacion y no le servirá de disculpar alguna siendo testigos el sargento distinguido de la misma compañia, Don Ignacio Vallejo, y el cabo Francisco Casares, dijo ser casado. Señal de cruz.

JOSE ESTRADA,
IGNACIO VALLEJO,
FRANCISCO CASARES,
Notas.

[*For map see original, page* 15.]

Asiendo el cabo el dia primero de Diciembre, de mil ochocientos veinte y siete.

ESTRADA.

El ciudadano Rodrigo del Pleigo, alfares de la compañia permanente del presidio de Monterey, y comandante accidental de ella. Certifico que la filiacion que antecede es copia de su original que se halla en el libro de filiaciones de la compañia que esta á mi cargo. Y para que conste lo firmé en el presidio de Monterey, á quinta de Octubre, de mil ochocientos treinta.

RODRIGO DEL PLEIGO.

Concuerda con su original que me presenta el ciudadano Rafael Castro, (que doy fée haber sito,) para que se sacase el testimonio respectivo por convenirle, asi les de estos fielmente sacado.

Sello Tercero, Dos Reales.

Habilitado provicionalmente por la administracion de la aduana maritima de Monterey, para los años de mil ochocientas treinta y tres, y mil ochocientos treinta y cuatro.

JOSE RAFAEL GONZALES.

FIGUEROA.

A la letra: Yo, el alcalde constitucional de esta capital, lo firme en Monterey, à quince de Junio, de mil ochocientos treinta y tres, actuando con testigos de acist'a en la forma permitido, y doy fée.

MARCELINO ESCOBAN.

De ass'a: JOSE MARIA MALDONADO,
De ass'a: JOSE ANTONIO GARCIOLA.

En cumplimiento á la horden que el s'or jues superior politico de la Alta California, se servia dirigir a este alunt'o por han decreto fecha 15 de Junio, de 1836, en que manda informe si el interesado en esta instancia obtiene los requisitos prevenidos para ser atendido se ha hunido d'ha corporacion, conforme la ordenanza yn forma lo siguiente. El interesado en esta instancia obtiene todos los requisitos necesarios para ser hatendido pero en esta su solicitud se considera no poderse atender por pretender han parage que no se ha reconocido nunca por baldio siempre sea reconocido por agostadero los bienes de esta municipalidad, pues los leguas que hay de la villa ó otro parage de Aptos son dos y tres quartas poco mas ó menas y del Sanjon que sita el interesado habra dos y medio á la espresada villa pues estan medidas las leguas y son tres leguas a huna alguna inmedia que este á la parte del oriente tiene dos oyos de agua huno por cada parte de d'ho Morillo de Aptos, estas leguas son de latitud pues de longitud es muy angosto pues en ninguna parte llegará á huna legua de hancho por que por huna parte esta la mar, y por otra la sierra en todo este terreno agostan bienes de la espresada villa se estubo, sino que llegarán á el las bienas por que se habian es casado pero á esta fecha se estienden alto d'ho parage este se reconose por de comunidad se le a dicho al interesado que pr. habitante los bienes sus agostaderos y se considera no ser sitio que lo puede poseer en propiedad ningun individuo si no que es el gobernamiento de la villa de Branciforte, y lo firman los que lo componen en la espresada villa, en la casa conterl, de 12 de Julio, de 1833.

JOSE ANTONIO ROBLES,
JOSE MARIA FALDON,
JUAN JOSE LIS.

JUAN JOSE CASTRO.

Otro si las tierras que á elaber son de humedad en tiene ningun riego.

JOSE MA. FALAJOR,
JOSE ANTONIO ROBLES.

Monterey, Noviembre 16, de 1833.

Vista la peticion con que da principio este espediente (seal on the original) el informe de la autoridad municipal de la villa de Branciforte, y la concesion provicional que hizo mi inmediato antecesor, con todo lo demas que se tuvo presente y ver convino de conformidad por lo dispuesto por las leyes y reglamentos de la materia, se declara al Ciud'o Rafael Castro, dueño en propiedad del parage conocido con el nombre de Aptos, colindante con la costa rancho del Ciud'o Joaquin Castro, la sierra y el parage de Itroquel sujetandose á pagar el canon que se le imponga cuando se arreglen los linderos de los Egidos, de la villa, y á lo demas condiciones que se estipularen: Librese el despacho correspondiente, tomese razon en el libro respectivo y dirigase este expediente para la debida aprobacion de la Ex'ma Deputacion territorial, en cuyo caso el interesado á quien se le hara saber este decreto presentara nuevam'te su titulo para que se le revalide.

El So'r Don José Figueroa, comandante general, inspector y gefe superior politico del territorio de la Alta California, asi lo mandó, decretó, y firmo, de que doy fée.

JOSE FIGUEROA.
AGUSTIN V. ZAMORANO, *Secretario*.

En el mismo dia comparecio el Ciud'o Rafael Castro, en la secretaria de mi cargo y habiendolo leido el superior decreto que antecede al señor gefé superior politico del territorio, dijo que lo oye y queda conforme y para la debida constancia, lo firmo con migo.

RAFAEL CASTRO,
AGUSTIN V. ZAMORANO.

José Figueroa, General de brigada de los Ejercitos Mejicanos, Comand'te general, Inspector y gefé superior politico de la Alta California.

Por cuanto el ciudadano Rafael Castro, ha pretendido para su beneficio personal y el de su familia el terreno conocido con el nombre de Aptos, colindante con la costa, rancho del Ciud'o Joaquin Castro, la sierra y el parage de Itroquel practicadas previamente las diligencias y averiguaciones concernientes segun lo dispuesto por leyes y reglamentos: usando de las facultades que me son conferidas á nombre de la nacion Mejicana, he venido en concederle el terreno mencionado, declarando le la propiedad de el por las presentes letras, entendiendose d'ha concesion con entera conformidad á lo dispuesto por las leyes y sin perjuicio de comun de los habitantes de la villa de Branciforte, por lo respectivo ó pastos aguas, leña madera y se sujito á pagar el canon que se le imponga si resultare pertenecer á los ejidos de la citada villa de Branciforte, cuando se arreglen los linderos á reserva de la aprobacion ó desaprobacion de la Ex'ma Diputacion territorial, y del supremo gobierno y bajo las condiciones siguientes:

1a. Que se sometará á las que estableciere el reglam'to que se han de formar para la distribucion de terrenos baldios y que entretanto ni el agraciado ni sus herederos podran dividir ni enagenar el que se les

adjudica, imponer censo, vinculo fianza hipoteca ni otro gravamen aunque sea por causa piadosa ni pasarlo á manos muertas.

2a. Podra cercarlo sin perjudicar las travesias caminos y servidumbres; lo disfrutara libre y esclusivamente destinandolo al uso í cultivo que mas le acomode; pero dentro de un año fabricara casa y estara habitada.

3a. Cuando se le confirme la propiedad, solicitará del juez respectivo que le de posecion juridica en virtud de este despacho por el cual se demarcaran los linderos en cuyos limites pondra á mas de las mohoneras algunos arboles, frutales, ó silvestres de alguno utilidad.

4a. El terreno de que se le hace donacion es de una area y superficie de una legua cuadrada poco mas ó menos segun explica el diseño que corre en el espediente. El juez que diere la posecion lo hará medir conforme á ordenanza pa. señalar los linderos quedando el sobrante que resulte á la nacion pa. los usos convenientes.

5a. Si contraviniese á estas condiciones perdera su derecho al terreno y será denunciable por otro.

En consecuencia mando, q'e sirviendole de titulo el presente y teniendose por firme y valedero se tome razon en el libro á que corresponde y se entregue al interesado pa. su resguardo y demas fines.

Dado en Monterey, a 16 de Noviembre, de 1833.

JOSE FIGUEROA.

AGUSTIN V. ZAMORANO, *Secretario.*

Las comiciones de colonisacion y terrenos baldios á quienes se paso el espediente, cuya formacion provoca por pretencion que el ciudadano Rafael Castro, hizo del parage nombrado Aptos lo han examinado con la sirconspecion que corresponde, teniendo al mismo tiempo presente la ley de 18 de Agosto, de 1824, sus concordantes y las disposiciones generales que en 24 de Noviembre, de 1824, dicto el Supremo Gobierno de la Union pa. el mejor cumplimiento de la primera del examen *del examen* del espediente se ha penetrado la comicion de la opinion que ya tenia de la escrupolisidad, y tiró con el S'or Gefé Superior Politico lo mando instruir: de suerte que ni en la formacion se estrabia algun requisito esencial de los practicados. Por lo dicho concluye la comicion ofreciendo á la deliberacion de esta ex'ma diputacion la siguiente proposicion :

1a. Se aprueba la concesion hecha al ciudadano Rafael Castro del parage nombrado Aptos, consedido en 16 de Noviembre, de 1833, de entera conformidad con lo provenido en la ley de 18 de Agosto, de 1824, y el art'o 5o. del reglamento de 21 de Noviembre, de 1828.

Monterey, Marzo 1o, de 1834.

CARLOS ANT'O CARRILLO.

JOSE CASTRO.

JOSE A. ESTADILLO,

JOSE T. ORTEGA.

MONTEREY, 1o. *de Mayo, de* 1834.

En sesion de este dia se aprobo por la ex'ma diputacion la proposi-

cion del dictamen antecedente, mandandose, devuelva el expediente al S'or Gefé Sup'or Politico pa. los fines consiguientes.

JOSE FIGUEROA.
JUAN B. ALVARADO, *Secretario*.

Sello Tercero, Dos Reales.

Habilitado provicionalmente por la administracion de la aduana maritima de Monterey, para los años de mil ochocientos treinta y cuatro, y mil ochocientos treinta y cinco.

FIGUEROA. RAFAEL GONZALES.

MONTEREY, *Junio* 18, *de* 1834.

En vista de la aprobacion otorgada en 17 de Mayo de ult'o, por la ex'ma diputacion territorial, librese testimonio de ella y de este decreto á la parte de Don Rafael Castro, en confirmacion de la concesion del terreno de Aptos que obtuvo en 16 de Noviembre, del año pp'do. El S'or Don José Figueroa, general de brigada, comandante general, inspector y gefé superior politico del Territorio de la Alta California, asi lo mandó, decreto y firmo, de que doy fée.

JOSE FIGUEROA.
AGUSTIN V. ZAMORANO, *S'rio*.

Testimonio.

Se aprueba la concesion hecha el ciud'o Rafael Castro, del parage nombrado Aptos concedido en 15 de Noviembre, de 1833, de entera conformidad con lo provenido en la ley de 18 de Agosto, de 1824, y el art'o 5, del règlamento de 21 de Noviembre, de 1828.

MONTEREY, 17 *de Mayo, de* 1834.

En sesion de este dia se aprobo por la ex'ma diputacion la proposicion del dictamen anteced'te, mandando se devuelva el expediente al Sr. Gefé Superior Politico, pa. los fines consiguientes.

JOSE FIGUEROA.
JUAN B. ALVARADO, *S'rio*.

MONTEREY, *Junio* 18, *de* 1834.

En vista de la aprobacion otorgada en 17 de Mayo ultimo, por la ex'ma diputacion territorial, librese testimonio de ella y de este decreto á la parte de Don Rafael Castro, en confirmacion de la concesion *de la concesion* de terreno de Aptos que obtuvo en 16 de Noviembre, del año pp'o. El S'or Don José Figueroa, general de brigada, comandante general, inspector y gefé superior politico del Territorio de la Alta California, asi lo mando, decreto y firmó, de que doy fée.

JOSE FIGUEROA.
AGUSTIN V. ZAMORANO, *Sec'rio*.

Concuerda á la letra con su original del cual hize sacar el presente testimonio pa. resguardo del interesado, á Monterey, á 18 de Junio, de

1834. Siendo testigos los Ciudadanos Bernardo Navarrete y Bonifacio de Mandariaga, de esta vecinidad.

En testimonio de verdad.

F. FIGUEROA.
A. V. ZAMORANO, *S'rio.*

Sello Tercero, Dos Reales.

Habilitado provicionalmente por la aduana maritima de Monterey, para los años de 1839 y 1840.

[SEAL.]

Ex'mo S'or Gobernador:

El ciudadano Rafael Castro vecino de esta distrito ante la justificacion de V. E. por el ocurso que mas haya lugar en derecho parese y dice; que en virtud de haber resultado un sobrante de terreno al tiempo de que se le dio la posecion juridica del que tiene concedido solicita la propiedad de el colindante con el parage de las cuatro leguas y con un palo seco que sirbe de limites al sitio de sus hermanos cuyo pedaso consta poco mas ó menos de dosientos varas de latitud y se halla baldio. P. t. A V. E. suplico se sirba tomar en consideracion esta mi peticion por parecerme de justicia; jurandolo necesario.

RAFAEL CASTRO.

Monterey, Junio 12, de 1840.

MONTEREY, *Junio* 13, *de* 1840.

Informe el juez de paz de Branciforte si el interesado es acredor á la gracia que pretende y todo lo demas, ql. crea conveniente pa. respeto al terreno de que se hace mencion.

ALVARADO.

Ex'mo S'or Gobernador:

En cumplimiento del superior decreto Marg't 13 de Junio, aciendo informar á V. E. este juzgado de paz de que el vecino Don Rafael Castro, pa. de V. E. tenerlo en consideracion sobre lo que pretende del terreno que solicita por estar el terreno que teni ocupado muy corle y teniendo bastantes bienes por hora el terreno que pretende esta baldio y concluida con el sitio del finado Joaquin Castro, sera latitud como 300 varas. Es cuanto se puede informar á V. E. este jusgado de paz de Branciforte.

Junio 19, de 1840. JOSE BOLCOFF.

Mont— [Sello Tercero, Dos Reales.

Habilitado provicionalmente por la aduana maritima de Monterey, para los años de 1839 y 1840.

ALVARADO. ANTONIO MARIA OSIO.]

[SEAL]

MONTEREY, 8 *de N'bre, de* 1840.

De conformidad con lo pedido por el Ciud'no Rafael Castro, adjudicado el numero de vara del terreno ql. pretende como estension al ter-

reno de Aptos que se le tiene concedido deviendo llegar la medicion hasta los limites del rancho de San Andres, en el punto del palo seco el encino y el terreno que media hasta el lugar nombrado las cuatro leguas; librese la orden correspondiente al juez de la villa de Branciforte, para que proceda hacer d'ha medicion y agreguese este documento del expediente respectivo.

El Señor Don Manuel Jimeno, gobernador interino del departamento de las Californias, asi lo mando, decretó y firmo, de que doy fé.

JIMENO.
FRANC'O ARCE,
Oficial Primero.

OFFICE OF THE SURVEYOR GENERAL OF THE UNITED STATES FOR CALIFORNIA.

I, Samuel D. King, Surveyor General of the United States for the State of California, and, as such, now having in my office and under my custody a portion of the archives of the former Spanish and Mexican territory or department of Upper California, do hereby certify, that the twenty-five preceding and hereunto annexed pages of tracing paper, numbered from one to twenty-five, and each of which is verified by my initials, (S. D. K.,) exhibit true and accurate copies of certain documents on file, and forming part of the said archives in this office.

In testimony whereof, I have hereunto signed my name officially and affixed my private seal, (not having a seal of office,) at the city of San Francisco, Cal'fa, the 28th day of January, 1853.

SAMUEL D. KING,
Surveyor General Cal'fa.

Filed in office, Aug'st 31st, 1853.

GEO. FISHER, *Sec'y.*

Translation.

Jurisdiction of Branciforte.—No. 10.—Year 1833.

Record of Proceedings about the location called Aptos, solicited for his benefit and cultured by Rafael Castro.

(79.)

S'r Superior Political Chief:

The citizen Rafael Castro, a resident of the village of Branciforte, native of this territory, married, and by profession a farmer, before your well known justice as law may best permit him, appears and says: That having, in the year 1835, solicited the location called Aptos, to occupy it with his little stock and to make the necessary farming, the supplicant was granted it provisionally for his culture and use, by decree of D. Manuel Victoria, as is justified by the solicitation, which he accompanies in original; and having thus occupied and maintained on it a house, corral, husbandry, and about 150 heads of black cattle, and

it being indispensable to him to possess it freely and peaceably, he cannot but exhibit to you, that the land he solicits and is expressed in the adjoined sketch, borders on the coast, on the rancho of the citizen Joaquin Castro, on the sierra, and on a mountain stream or ditch, which has its source on this; which land will make one square league. It passes along one side of the permanent creek called Aptos, where only the cattle can drink; between this and the ditch are agricultural lands, which are irrigated seasonably; and on the creek or opposite side to the coast, the most is sterile and mountainous highland, which serves as shade for the cattle. This land is three leagues distant from the said village, from said ditch, and previous to occupying it, it was vacant. He, the petitioner, duly accompanies to you a testimonial of the absolute discharge he obtained, being corporal of the company of this port, in which he served with honesty more than six years, to the satisfaction of his chiefs. In view of these services, as what else he has referred to, he prays your high justice to grant him in ownership the location of Aptos, in consideration of his family. Therefore, he humbly prays that you would be pleased to accord to his solicitation, whereby he will receive mercy, swearing that there is no malice herein, and to what else is necessary, etc., etc.

RAFAEL CASTRO.

Monterey, June 18th, 1833.

(In the margin.)

MONTEREY, *June 19th*, 1833.

In conformity with the laws on the subject, the ayuntamiento of the valley of Branciforte will report whether the interested party, in this instance, possesses the requisites provided in order to be attended to in his solicitation; whether the land he solicits is comprised in the twenty limitary or ten littoral leagues expressed in the law of August, of 18th August, 1824; whether it has belonged or does belong to the property of any one in particular, corporation or pueblo; whether it is known as vacant; whether the land is irrigated seasonably, or by any receptacle of water, with every thing that may be necessary to illustrate the matter.

The superior political chief of this territory thus did order, decree and sign, of which I bear testimony.

FIGUEROA.
AUGUSTIN V. ZAMORANO,
Secretary.

(In the margin.)

The report asked for of the ayuntamiento in the foregoing decree, being finished, it will convey this espediente to the father minister of the mission of Santa Cruz, that he will report what may present itself to him.

FIGUEROA.
AGUSTIN V. ZAMORANO,
Secretary.

Having seen the foregoing espediente and decree, and the report of the illustrious ayuntamiento, I say that the land does not belong to this mission of Santa Cruz, nor have I anything to report respecting this sitio.

FR'CO ANTO. REALES.

Sir Commandante General:

Rafael Castro, discharged corporal in the company of cavalry of the port of Monterey, and residing in the village of Branciforte, appears before you, and with the greatest subordination and respect due, says, that finding himself recently discharged and not having a place where to keep his little stock, which he possesses, without introduction of other stock, and there being a location without stock immediate to said village, called Aptos, he prays to be pleased to grant it him, in order to put his stock, seed, and house on it; and therefore humbly prays you to provide in his favor, as it may suit you, a favor and grace he expects of your well-known justice.

In the village of Branciforte, 28th August, 1837.

RAFAEL CASTRO. ⋈

MONTEREY, *Sept. 4th*, 1831.

I grant the interested party, provisionally, the land he solicits for his uses, under the anticipated circumstance of maintaining it for his family in a state of culture and availableness.

VICTORIA.

I certify, that the location of Aptos, decidedly, is without any stock, for only in time of scarcity of pasture the stock of the inhabitants of this village are used to pass thither; and I likewise certify, that it contains no more farming lands than for eight or ten "fanegas" of wheat and something like six or seven "almades" of maize, and is three leagues distant from this village; and to attest it for the suitable purposes, I give this certificate, in the village of Branciforte, as justice of said jurisdiction, on the 28th of August, 1837.

JOAQUIN CASTRO.

The citizen José Maria de Eschuandea, Lieutenant colonel of engineers, Commandante general, Inspector and superior political chief of Upper California:

By the present I grant absolute discharge to Rafael Castro, as corporal of the company of cavalry stationed at Monterey, he having solicited it, and the substitute he presented having been admitted. Therefore, I order the captain or commander of the said company to make a return hereof on the first review, setting up his respective account, and setting down here on his certified regimental register.

Given in Monterey, on the 14th day of October, 1830.

JOSE MARIA ESCHUANDIA,

Company of cavalry of the Presidio of Monterey.

Register—Fees—Inches—Lines.

it being indispensable to him to possess it freely and peaceably, he cannot but exhibit to you, that the land he solicits and is expressed in the adjoined sketch, borders on the coast, on the rancho of the citizen Joaquin Castro, on the sierra, and on a mountain stream or ditch, which has its source on this; which land will make one square league. It passes along one side of the permanent creek called Aptos, where only the cattle can drink; between this and the ditch are agricultural lands, which are irrigated seasonably; and on the creek or opposite side to the coast, the most is sterile and mountainous highland, which serves as shade for the cattle. This land is three leagues distant from the said village, from said ditch, and previous to occupying it, it was vacant. He, the petitioner, duly accompanies to you a testimonial of the absolute discharge he obtained, being corporal of the company of this port, in which he served with honesty more than six years, to the satisfaction of his chiefs. In view of these services, as what else he has referred to, he prays your high justice to grant him in ownership the location of Aptos, in consideration of his family. Therefore, he humbly prays that you would be pleased to accord to his solicitation, whereby he will receive mercy, swearing that there is no malice herein, and to what else is necessary, etc., etc.

RAFAEL CASTRO.

Monterey, June 18th, 1833.

(In the margin.)

MONTEREY, *June 19th*, 1833.

In conformity with the laws on the subject, the ayuntamiento of the valley of Branciforte will report whether the interested party, in this instance, possesses the requisites provided in order to be attended to in his solicitation; whether the land he solicits is comprised in the twenty limitary or ten littoral leagues expressed in the law of August, of 18th August, 1824; whether it has belonged or does belong to the property of any one in particular, corporation or pueblo; whether it is known as vacant; whether the land is irrigated seasonably, or by any receptacle of water, with every thing that may be necessary to illustrate the matter.

The superior political chief of this territory thus did order, decree and sign, of which I bear testimony.

FIGUEROA.
AUGUSTIN V. ZAMORANO,
Secretary.

(In the margin.)

The report asked for of the ayuntamiento in the foregoing decree, being finished, it will convey this espediente to the father minister of the mission of Santa Cruz, that he will report what may present itself to him.

FIGUEROA.
AGUSTIN V. ZAMORANO,
Secretary.

Having seen the foregoing espediente and decree, and the report of the illustrious ayuntamiento, I say that the land does not belong to this mission of Santa Cruz, nor have I anything to report respecting this sitio.

FR'CO ANTO. REALES.

Sir Commandante General:

Rafael Castro, discharged corporal in the company of cavalry of the port of Monterey, and residing in the village of Branciforte, appears before you, and with the greatest subordination and respect due, says, that finding himself recently discharged and not having a place where to keep his little stock, which he possesses, without introduction of other stock, and there being a location without stock immediate to said village, called Aptos, he prays to be pleased to grant it him, in order to put his stock, seed, and house on it; and therefore humbly prays you to provide in his favor, as it may suit you, a favor and grace he expects of your well-known justice.

In the village of Branciforte, 28th August, 1837.

RAFAEL CASTRO. ⋈

MONTEREY, *Sept. 4th*, 1831.

I grant the interested party, provisionally, the land he solicits for his uses, under the anticipated circumstance of maintaining it for his family in a state of culture and availableness.

VICTORIA.

I certify, that the location of Aptos, decidedly, is without any stock, for only in time of scarcity of pasture the stock of the inhabitants of this village are used to pass thither; and I likewise certify, that it contains no more farming lands than for eight or ten "fanegas" of wheat and something like six or seven "almades" of maize, and is three leagues distant from this village; and to attest it for the suitable purposes, I give this certificate, in the village of Branciforte, as justice of said jurisdiction, on the 28th of August, 1837.

JOAQUIN CASTRO.

The citizen José Maria de Eschuandea, Lieutenant colonel of engineers, Commandante general, Inspector and superior political chief of Upper California:

By the present I grant absolute discharge to Rafael Castro, as corporal of the company of cavalry stationed at Monterey, he having solicited it, and the substitute he presented having been admitted. Therefore, I order the captain or commander of the said company to make a return hereof on the first review, setting up his respective account, and setting down here on his certified regimental register.

Given in Monterey, on the 14th day of October, 1830.

JOSE MARIA ESCHUANDIA,

Company of cavalry of the Presidio of Monterey.

Register—Fees—Inches—Lines.

[REC. CXVII, D. T., 1856.]—3

Rafael Castro, son of Joaquin and Maria Antonia Armada, native of the village of Branciforte, subject to the mayoralty of Monterey and domiciled in said village, by profession a farmer, his stature five feet three inches and ten lines, of age 20 years, of religion a Roman Apostolic Catholic; his signs are, color rosy, hair and eyebrows black, nose regular, eyes grey, thin beard. He enlisted voluntarily for ten years, in the presidio of Monterey, on the 26th day of April, 1823, and the penalties which are provided in the ordinance, and the additions to it, were read to him; and in order to testify, he made the sign of the cross, being advised that it is the justification, and that no apology will avail him. The distinguished sergeant of the same company, D. Ignacio Vallejo, and the corporal thereof, Francisco Casares. Promoted to corporal on the 1st day of December, 1827.

ESTRADA.

The citizen Rodrigo del Pleigo, Ensign of the company of cavalry stationed at the presidio of Monterey, and accidental commander thereof:

I certify that the foregoing register is a copy of the original, found in the book of registers of this company, which is in my charge; and to attest it, I signed it in the presidio of Monterey, on the 15th of October, 1830.

RODRIGO DEL PLEIGO.

Conformable to the original which the citizen Rafael Castro presented to me, (which I attest to have seen,) in order that the respective testimonial might be drawn to suit him, and that it is faithfully drawn to the letter: I, the constitutional alcalde of this capital, signed it in Monterey on the 15th of June, 1833, acting with attesting witnesses in due form, and attest it.

MARCELINO ESCABAR.

Assistants: Jose Maria Maldonado,
Jose Antonio Garciola.

In compliance with the order which the superior political judge of Upper California has been pleased to direct to this ayuntamiento, by a decree dated 15th of June, 1835, in which he orders it to report whether the interested party in this instance possesses the necessary requisites in order to be attended to, this corporation has been assembled conformable to ordinance, and it reports the following:

The interested party in this instance possesses the necessary requisites in order to be attended to, but, in this instance, it is considered he cannot be attended to on account of soliciting a location which never has been recognised as vacant. It has always been recognised as summer pasture for the stock of municipality, since the leagues which there are from the village to said location of Aptos amount to two and three quarters, a little more or less, and, from the ditch which the interested party mentions, will make two and a half to said village, for the leagues are measured, and there are three leagues to an imme-

diate lagoon which is towards the east, and has two channels of water, one to each side of said *of said* creek of Aptos; these leagues are in latitude, since the longitude it is narrow, for nowhere will it come to one league in breadth, because on the one side is the sea, and on the other the sierra. On all of this land, graze in the summer, stock of the said village, if it were without that the stock reach to it, because it has become rather scarce, but, to this date, it is extended to this location, and as this is recognised as that of the community, the interested party has been told not to scare away the cattle from their summer pastures, and it is considered not to be a sitio which any individual can possess in ownership, but is what the government may find just. This is what the ayuntamiento of the village of Branciforte reports, and those who compose it signed, in the said village, in the town-house, on the 12th July, 1833.

JOSE ANTONIO ROBLES,
JUAN JOSE CASTRO,
JUAN JOSE FELIZ,
JOSE MARIA SALABAR.

Postscriptum.—The lands there are of farming, are of moisture, has no irrigation.

JOSE MARIA SALABAR,
JOSE ANTONIO ROBLES.

Having seen the petition with *with* which this espediente commences the report of the municipal authority of the village of Branciforte, and the provisional concession which my immediate predecessor made, with everything else to be borne in mind, and was to the purpose in conformity with the requirements of the laws and regulations on the subject: Rafael Castro is hereby declared owner, in his own right, of the location known by the name of Aptos, bordering on the coast, rancho of the citizen Joaquin Castro, the Sierra, and the location of Shoguel, subject to the payment of tribute, which may be imposed on him when the boundaries of the fields of the village shall be settled, and to the other conditions which shall be stipulated. Let the corresponding document be issued, enter it in the respective book, and let this espediente be directed for due approbation to the excellent territorial deputation, in which case the interested party, to whom this decree will be made known, will present anew his title-deed, that it may be ratified. D. José Figueroa, commandant general, inspector, and superior political chief of the Territory of Upper California, thus did order, decree, and sign, of which I bear testimony.

JOSE FIGUEROA,
AGUSTIN V. ZAMORANO,
Secretary.

On the same day appeared the citizen Rafael Castro in the secretary office in my charge, and having read to him the foregoing superior

decree of the political chief of the territory, he said he heard it, and that he will act conformably, and for due attestation he signed it with me.

AGUSTIN V. ZAMORANO,
RAFAEL CASTRO.

José Figueroa, Brigadier general in the Mexican national armies, Commandante general, inspector, and superior political chief of Upper California.

Whereas, the citizen Rafael Castro has solicited for his personal benefit and that of his family the land known by the name of Aptos, bordering on the coast, rancho of the citizen Joaquin Castro, the Sierra, and the location of Shoguel, having previously taken the necessary action, and made the necessary investigation, according to the requirements of the laws and regulations, in exercise of the powers vested in me, in decree of to day, in the name of the Mexican nation, I have concluded to grant him the mentioned land, declaring it his property, by the present letters-patent, understanding said concession in entire conformity with the requirements of the laws, and without prejudice to the common use, for the inhabitants of the village of Branciforte, at the respective pastures, waters, fuel, wood, etc., and subject to the payment of the tribute which may be imposed on him, if it shall result to belong to the fields of the said village of Branciforte, when its boundaries shall be settled, under reservation of the approbation or condemnation of the excellent territorial deputation and the supreme government, and under the following conditions:

1st. That he submit to the conditions which shall be established by the regulation that is to be made for the distribution of vacant lands; and that, in the mean time, neither the grantee nor his heirs shall have the power to divide and alienate what hereby is adjudged to them, nor to subject it to rent, entail, bond, mortgage, or any other incumbrance, though it be for a charitable purpose, nor convey it into mortmain.

2d. He may fence it without prejudicing to the crossings, roads, and servitudes; he will enjoy it freely and exclusively, appropriating it to the use or culture that best may suit him, but within a year, at most, he will build a house to be inhabited.

3d. When the ownership shall be confirmed to him, he will solicit of the respective judge to give him juridical possession in virtue of this document, by whom the boundaries shall be marked, on the extremities of which, besides the landmarks, he will put some *some* fruit trees, or wild ones of some utility.

4th. The land granted is of one area, or superficie of one square league, a little more or less, as is shown in the sketch joined to the espediente. The judge who shall give the possession will cause it to be measured conformable to ordinance for making boundaries, leaving the surplus that may result to the nation for convenient purposes.

5th. If he shall violate these conditions, he will lose his right to the land, and it may be denounced by any other party.

Consequently, I order that these presents serving him as a title, and being held as firm and valid, it be entered in the respective book and delivered to the interested party for his security, and other purposes.

Given in Monterey, on the 16th of November, 1833.

JOSE FIGUEROA.
AGUSTIN V. ZAMORANO, *Secretary*.

The committee on colonization and vacant lands, to which was sent the espediente, whose formation was occasioned by the solicitation which the citizen Rafael Castro made to the location called Aptos, have examined it with proper circumspection, at the same time bearing in mind the law of the 18th of August, 1824, its records and the general provisions which were dictated by the Supreme Government of the Union, on the 28th November, 1828, for the better fulfilment of the first. From the examination of the espediente, the committee has been strengthened in the opinion it already had of the scrupulosity and judgment with which the supreme political chief directed it, so that neither on the formation nor in the process there has been deviated from any requisite.

On account hereof, the committee concludes to submit to the deliberation of this excellent deputation the following proposition:

1st. It approves of the grant made to the citizen Rafael Castro of the location called Aptos, granted on the 16th of November, 1833, in entire conformity with the provisions in the law of the 18th of August, 1824, and article 5th of the regulations of 21st of November, 1828.

Monterey, March 10th, 1834.

JOSE ORTEGA,
CARTO ANT'O CARRILLO,
JOSE A. ESTUDIDO,
JOSE CASTRO.

MONTEREY, *May* 17*th*, 1834.

In to-day's session, the excellent deputation approved of the proposition in the foregoing opinion, ordering the espediente to be returned to the supreme political chief for convenient purposes.

JOSE FIGUEROA.
JUAN B. ALVARADO, *Secretary*.

MONTEREY, *June* 18*th*, 1834.

In view of the approbation granted on the 17th of May last, by the excellent territorial deputation, let a testimonial of it and of this decree be issued to the party, Rafael Castro, in confirmation of the grant of the land of Aptos, which he obtained on the 16th of November of last year.

D. Juan Figueroa, brigadier general, commandante general, inspector, and superior political chief of the Territory of Alta California, thus did order, decree, and sign, of which I give testimony.

JOSE FIGUEROA.
AGUSTIN Z. ZAMORANO, *Secretary*.

Testimonial.

It appears of the grant made to the citizen, Rafael Castro, of the location called Aptos, granted on the 16th of November, 1833, in entire conformity with the provisions in the law of the 18th of August, 1824, and article 5th of the regulations of 21st of November, 1828.

In to-day's session, the excellent deputation approved of the proposition in the foregoing decree, ordering the espediente to be returned to the superior political chief for convenient purposes.

JOSE FIGUEROA.
JUAN B. ALVARADO, *Secretary*.

MONTEREY, *June* 18*th*, 1834.

In view of the approbation granted on the 17th of May last, by the excellent territorial deputation, let a testimonial of it and of this decree be issued to the party, Rafael Castro, in confirmation of the grant of the land of Aptos, which he obtained on the 16th of November last year.

D. José Figueroa, brigadier general, commandante general, inspector, and superior political chief of the Territory of Alta California, thus did order, decree, and sign, of which I give testimony.

JOSE FIGUEROA.
AGUSTIN Z. ZAMORANO, *Secretary*.

Conformable to the letter with its original, from which the present testimonial was drawn, for the security of the interested party, in Monterey, on the 18th of June, 1834, the citizens Bernardo Navareta and Bonifacio de Mandariaga, of this place, being witnesses.

In testimony of truth.

J. FIGUEROA.
A. Z. ZAMORANO, *Secretary*.

Excellent Sir Governor:

The citizen, Rafael Castro, resident of this district, appears before your excellency's justice, and as best may be consistent with law, says, that on account of having resulted a surplus of land at the time when he was given juridical possession of the land he was granted, he solicits the ownership of this surplus, bordering on the location of Las Cuatras Legua, and *and* on the pole which serves as limits to the sitio of his brothers; which piece appears a little more or less than two hundred varas in breadth and is vacant. Therefore, I pray your excellency to be pleased to take into consideration this my petition, as it appears to me to be founded in justice.

Monterey, June 12th, 1840.

RAFAEL CASTRO.

(In the margin.)

MONTEREY, *June* 13*th*, 1840.

The justice of the peace of Branciforte will report, whether the interested party in this solicitation is entitled to the favor he asks for, and what else he thinks expedient respecting the land he mentions.

ALVARADO.

Excellent Sir Governor: In compliance with the superior marginal decree of the 13th of June, this justice's court reports accordingly: The resident Rafael Castro asks your excellency to take into consideration what he solicits, namely, the land which he solicits, because the land he has occupied is very short, and having sufficient stock, the land he now solicits is vacant and borders on the sitio of the deceased Joaquin Castro; it will be about 300 varas. This is all this justice's court of Branciforte can report.

June 19th, 1840. JOSE BOLCOFF.

MONTEREY, *8th November*, 1840.

In conformity with the petition of citizen Rafael Castro, he is adjudged the number of varas of the land he solicits as extension to the land of Aptos, which was granted to him as the numeration ought to reach to the limits of the rancho of San Andres on the point of the pole, the oak, and the land measured to the place called Los Cuatro Legua. Let the corresponding order be issued to the justice of the village of Branciforte, in order that he may proceed to make said measuration, and let this document be joined to the respective expediente.

D. Manuel Jimeno, governor ad interim of the department of both Californias, thus did order, decree, and sign, of which I bear testimony.

JIMENO.

FRANCISCO ARCE, *First Officer.*

Filed in office, Aug. 31, 1853.

GEO. FISHER, *Sec'y.*

Sello Primero, Seis Pesos.

Habilitado provisionalmente por la aduana maritima de Monterey, para los años, de mil ochocientos treinta y tres, y mil ochocientos treinta y cuatro.

JOSE RAFAEL GONZALES.

FIGUEROA.

José Figueroa, General de Brigada de los ejercitos nacionales Mejicanos, Comandante General, Inspector y Gefé Superior Politico de la Alta California:

Por cuanto el Ciudadano Rafael Castro ha pretendido para su beneficio personal y el de su familia el terreno conocido con el nombre de Aptos, colindante con el costa, rancho del Ciudadano Joaquin Castro, la sierra, y el parage de Shoquel: practicadas previamente las diligencias y averiguaciones consernientes segun lo dispuesto por leyes y reglamentos; usando de las facultades que me son conferidas á nombre de la nacion Mejicana he venido en concederle el terreno mencionado declarandole la propiedad de el por las presentes letras entendiendose dicha concesion con entera conformidad á lo dispuesto por las leyes, y sin perjuicio del aprovechiam'to comun, de los habitantes de la villa de

Branciforte, por lo respectivo a pastos aguas leña madera de y sujeto á pagar el canon que se le imponga si resultare pertenecer á los egidos de la citada villa de Branciforte cuando se arreglen sus linderos á reserva de la aprobacion ó desaprobacion de la exma. diputation territorial, y del supremo gobierno y bajo las condiciones siguientes:

1a. Que se someterá á las que estableciere el reglamento q'l se ha de formar para la distribucion de terrenos baldios y que entre tanto ni el agraciado ni sus herederos podran dividir, ni enagenar el que se les adjudica, imponer censo, vinculo fianza, hipoteca ni otro gravamen, aunque sea por causa piadosa, ni pasarlo á manos muertos.

2a. Podra cercarlo sin perjudicar las travesias caminos y servidumbres, lo disfrutara libre y esclusivamente destinandolo al uso ó cultivo que mas le acomode; pero dentro de un año á lo mas fabricara casa y estara habitada.

3a. Cuando se le confirme la propiedad solicitará del juez respectivo que le de posecion juridica en virtud de este despacho, por el cual se demarcarán los linderos en cuyos limites, pondra á mas de las mohoneras algunos arboles, frutales, ó silvestres de alguna utilidad.

4a. El terreno de que se hace donacion es de una area ó superficie de una legua cuadrada poco mas o menos segun esplica el diseño que corre en el expediente. El juez que diere la posecion lo hara medir conforme á ordenanza quedando el sobrante que resulte á la nacion para los usos convenientes.

5a. Si contraviniere á estas condiciones perderá su derecho al terreno y sera denunciable por otro.

En consecuencia mando que serviendole de titulo el presente y teniendose por firme y valedero se tome razon en el libro á que corresponde y se entreque al interesado para su resguardo y demas fines.

Dado en Monterey, a diez y seis de Noviembre, de mil ochocientos treinta y tres.

JOSE FIGUEROA.
A. V. ZAMORANO, *S'rio.*

Sello Tercero, Dos Reales.

Habilitado provisionalmente por la administracion de la aduana maritima de Monterey, para los años de mil ochocientos treinta y cuatro, y mil ochocientos treinta y cinco.

RAFAEL GONZALES.

FIGUEROA.

Gobierno Politico de la Alta California:

Se aprueba la concesion hecha al Ciudadano Rafael Castro del parage nombrado Aptos, concedido en diez y seis de Noviembre, de mil ochocientos treinta y tres, de entera conformidad con lo provenido en la ley de diez y ocho de Agosto, de mil ochocientos veinte y cuatro, y el articulo quinto del reglamento de veinte y uno de Noviembre, de mil ochocientos veinte y ocho.

Monterey, diez y siete de Mayo, de mil ochocientos treinta y cuatro.

En sesion de este dia, se aprobo por la exclentisima diputation la proposicion del dictamen antecedente, mandando se devuelva el expediente s'or gefé superior politico, para los fines consiguientes.

JOSE FIGUEROA.
JUAN BAUTISTA ALVARADO,
Secretario.

Monterey, Junio diez ocho, de mil ochocientos treinta y cuatro.

En vista de la aprobacion otorgada en diez y siete de Mayo ultimo, por la ecellentisima deputacion territorial. Librese testimonio de ella y de este decreto á la parte de D. Rafael Castro, en confirmacion de la concesion del terreno de Aptos q'l obtuvo en diez y seis de Noviembre, del año proximo pasado. El S'or Don José Figueroa, general de brigada, comandante general, inspector y gefe superior politico del territorio de la Alta California, asi lo mandó, decretó y firmo, de que doy fée.

JOSE FIGUEROA.
AGUSTIN V. ZAMORANO,
Secretario.

Concuerda con su original á la letra, del cual hize sacar el presente testimonio para resguardo del interesado en Monterey, a diez y ocho de Junio, de mil ochocientos treinta y cuatro. Siendo testigos los ciudadanos Bernardo Navarrete y Bonifacio de Mandariaga, de esta vecinidad.

En testimonio de verdad.

JOSE FIGUEROA.
AGUSTIN V. ZAMORANO, *S'rio.*

Queda tomada razon en el libro de acientos de titulos sobre adjudicaciones de terrenos a fojas doce numero diez que obra en el archivo de la secretario de mi cargo.

Monterey, N'bre diez y seis, de mil ochocientos treinta y uno.

JOSE FIGUEROA.
AGUSTIN V. ZAMORANO, *S'rio.*

Sello Tercero, Dos Reales.

Habilitado provicionalmente por la administracion de la aduana maritima de Monterey, para los años de mil ochocientos treinta y cuatro, y mil ochocientos treinta y cinco.

FIGUEROA. RAFAEL GONZALES.

Sr. Alcalde Constitucional:

El ciudadano Rafael Castro, de esta vecinidad, ante V. dice q'l habiendo obtenido la concesion propia del terreno conocido con el nombre de Aptos, occurro ante V. S. para que se sirva darle la posecion juridica conforme esta provenido en el arto. 4o del titulo de d'ho terreno que

solo espedio dies y seis de Noviembre, del año po. pdo. que debidamente acompaño y igualmente la confirmacion respectiva, para cuando obre los efectos deseados. Por tanto, á V. S. suplico se sirva ponerla en la posecion que solicita en lo que recibiré justicia.

Villa de Branciforte, 12 de Agosto, de 1834.

RAFAEL CASTRO.

En la villa de Branciforte, trese de Agosto, de mil ochocientos treinta y cuatro, en virtud de la antecedente solicitud proceder por mi el juez á la medicion señalamiento de linderos y posecion judicial, que solicita el interesado en este expediente señalandose para efectuarlo el dia catorse de Agosto, para lo que se sitará con boletas de comparecido á los colindantes. Asi yo d'ho jues de la instancia, lo decreté, mandé y firmé con los de assa., con quien actuo por receptorio á falta de escribano publico, segun derecho; doy fée.

MIGUEL RAMIREZ.

JOSE ANTONIO ROBLES,
JOAQUIN CASTRO, de ass'a.

En la fecha presente C'no Rafael Castro se le notifico el auto que antecede y de el interesado digo: que lo oye, que se dará por citado y firmó conmigo y los de ass'a, en la forma establecida; doy fée.

RAFAEL CASTRO,
JOSE ANTONIO BOLLES.

Ass'a: JOAQUIN CASTRO,
MIG'L RAMIREZ.

En la fecha se libraron las boletas, que se mandan en el antecedente auto y para conste lo rubriqué.

En la Rancho de Aptos, catorce de Agosto, de mil ochocientos treinta y cuatro. En complimiento del auto de f'ha concurieron los Ciudadanos Joaquin Castro y Martino Castro, colindantes de este rancho y sitado por la medicion, señalamiento de linderos y posecion nombré por medidores á los Ciud'os Rafael Robles y Juan José Castro, á quienes previa la aceptacion y juramento procederán al desempeño de su cargo. Asi yo el alcalde lo decreté, mandé y firmé, con los de mi ass'a.

JOSE ANTONIO BOLLOS.

De ass'a: JOAQUIN CASTRO,
De ass'a: MIGUEL RAMIREZ.

En la fecha se les notificó el auto ql. antecede á los colindantes entendidos que lo oyen y firmo.

BOLLOS,
JOAQUIN CASTRO,
MARTINEZ CASTRO.

Ass'a: RAFAEL ROBLES,
JUAN JOSE CASTRO.

En la f'ha y en el espresado Rancho de Aptos de le notifico el auto que antecede á los ciudadanos Rafael Robles, Juan José Castro, medi-

dores y entendidos digeron que aceptan y aceptaban d'ho cargo de medidores y juraron á dios y á la cruz de usarlo fiel y legalmente á todo su leal saber y entender sin dolo fraude contra persona alguna, y firmo con migo ante los testigos de a'ssa.

JOAQUIN CASTRO,
MIGUEL RAMIREZ.

ROBLES,
RAFAEL ROBLES,
JUAN JOSE CASTRO, Ass'a.

En seguida y en presencia de mi el espresado alcalde, y los d'hos medidores tomaron un cordel y con una vara de medir de uso Mejicano teniendola en la mano, medieron cincuenta varas para hacer la referida medicion y para la constancia lo rubriqué.

Sello Tercero, Dos Reales.

Habilitado provicionalmente por la aduana maritima de Monterey, para los años de mil ochocientos treinta y cuatro, y mil ochocientos treinta y cinco.

FIGUEROA. RAFAEL GONZALES.

En el mismo Rancho de Aptos, y en la referida f'ha siendo como á las nueve de la mañana yo el presente juez mandé á los medidores nombrados se pongan, para las medidas de tierras ql. han de hacer á Rafael Castro, y puesto el dh. se comenzo la medida teniendo el cordel al W. hasta lugar; á la terra de E. en donde se medieron cinco mil varas, completos ante llegar los linderos del ciud'no Joaq'n Castro en donde se puso una mohonera y luego desde S. á N. mismas medidas cinco mil varas, en donde se dispuso y formará una mohonera en portezuelo de las cuatro leguas en cada uno quedando el terreno debujado en la misma forma ql. se midio el terra declarando los d'hos medidores haber sitio ganado mayor tambien y por conste lo firmó con migo los ciudadanos medidores.

JOSE A. ROBLES,
RAFAEL ROBLES.

Ass'a: JOAQUIN CASTRO,
De ass'a: MIGUEL RAMIREZ.

En el Rancho de los Aptos y en la f'ha ciud'o vecino Rafael Castro de la villa de Branciforte, acompañando el juez de 1a instancia, de otro lugar y testigos digo C. Rafael Castro, ql. en virtud de habersele medido las tierras de este rancho segun consta en las diligencias anteriores tomara la verdadera corporeal y real posecion del espresado citio de ganado mayor, menos.

Sello Tercero, Dos Reales.

Habilitado provicionalmente por la administracion de la aduana maritima de Monterey, para los años de mil ochocientos treinta y cuatro, y mil ochocientos treinta y cinco.

FIGUEROA. RAFAEL GONZALES.

Una legua de latitud en cuadro perficie puesto en titulo obtiene de la concesion ql. de ella con f'ha diez y seis de Noviembre, del año pp'o, el s'r gefé superior politico por las facultades ql. le son conferidas en decreto de 31 de En'o ult'o, de la aprobacion ql. de este hizo la ex'ma diputacion de este territorio con f'ha diez y siete de Mayo corriente año. Entró y apacio por ella, arranco yerbas, ramas esparcio piedras de terra y tiro piedras por cuatro partes de viento é hizo otras seremonias y acto de posecion en señal de lo, que digo tomar y tomaba de d'ha terra y mando el citado juez de 1o instancia, ql. desde entonces lo tubiesen y reconosien por verdadero señal y posedor de ella de todo referido pidio d'ho ciud'o Rafael Castro, ql. para memoria y conservacion de lo venidero y de sus derechos por mi el repetido juez le fuese entendido una constancia lo ql. á entera autoridad con testigos de a'ssa con quienes en receptoria á falta de escribano publico, que no lo hay, segun derecho.

MIG'L RAMIREZ.

JOSE ANT'O ROBLES,
JOAQ'N CASTRO.

En la f'ha se devolvio este espediente al interesado en 7 f's utiles y para ql. consté lo rubriqué, pr. nota.

Gobierno Politico de la Alta California:

Por las informaciones que se han tomado en la solicitud de de Don Rafael Castro, sobre estension del terreno Aptos, ql. se le han concedido, pueden estenderse las medidas hasta los linderos del parage nombrado San Andres en el punto del palo seco el encino, y el terreno ql. media hasta el punto nombrado las cuatro leguas y en consecuencia proceda á hacer á V. la medicion correspondiente agregandola ql. ya se tiene hecha en la posecion ql. V. se le dio al mencionado D'n Rafael Castro, pr. ser anuente al decreto de conformidad que aparese en su instancia ql. corre agregada en el expediente de la materia. Dios y libertad!

Monterey, 9 de Noviembre, de 1840.

S'or Juez de Paz de la villa de Branciforte.

S'or Juez de Paz de este lugar:

Rafael Castro, ante V. por h. el occuro qe. haya lugar, hago presente qe. habiendose mandado por el gobierno que el terreno qe. pretende se agregare á mi rancho suplico á V. procedá a darme posecion y medirme á mi linderos de cuyo acto recibiré gracia y mercea; juro.

Sta. Cruz, Noviembre 16, de 1840.

RAFAEL CASTRO.

STA. CRUZ, 18, *de* 1840.

Cor forme á lo pedido por el interesado in comformidad á la orden del gobierno del corriente año y mes, procedase por mi á la posecion y señalamiento de linderos, qe. debe tener Dn. Rafael Castro para cuya fin se hará sitacion de colindantes, señalandose para la posecion el dia

27 del corriente mes, de cuyo acto, asi lo mandé, decreté y firmé, doy fée.

JOSE ROBLES.

En la f'ha presente al C. Rafael Castro se les notifico el auto que antecede sido y de el entendido digo que lo hoyo que se dare por citado y firmó conmigo y los de ass'a, y la forma establecida, doy fée.

JOSE ROBLES.

Ass'a: JUAN JOSÉ CASTRO,
MIG'L ROYCHE,
RAFAEL CASTRO.

En la f'ha se libraron las boletas qe. se mandan en el antecedente auto y para que conste lo rubriqué.

En el rancho de Aptos, 27 de Nbre., de 1840, en cumplimiento del auto f'ha concurieron los C. C. Juan José Castro y Miguel Lodge, colindante de este rancho y sitado para la medicion y señalam'to de linderos nombre por medidores á los C. C. Juan José Castro y Miguel Lodge, á quienes previa la aceptacion y juramento procedan al desempeño de su cargo. Asi yo el juez lo decreté, mandé y firmé, con los de mi ass'a.

JOSE ROBLES.

Medidores: JUAN JOSÉ CASTRO,
MIG'L COYCHI,
INACIO CASTRO.

La f'ha en el espresado rancho Aptos se les notifiquo el auto qe. antecede á los C. C. Juan José Castro y Mig'l Lodge, medidores, entendidos digeron que aceptan y aceptaron d'ho cargo de medidores, y juraron á Dios y á la señal de la Sta. Cruz, de usarlo fiel y legalmente en todo su leal y entender sin do, fraude contra persona alguna, y firmó con migo ante los testigos de ass'a.

J. ROBLES.

De ass'a: JUAN JOSÉ CASTRO,
MIG'L CAYCHI,
INACIO CASTRO.

En seguida en presencia de mi el espresado juez y los d'hos medidores formaron un cordel con una vara de medir uso Mejicano, teniendola en la mano midieron cincuenta varas, para hacer la referida medicion y para constancia lo rubrique. En el mismo rancho, autos en la referido f'ha siendo como las diez de la mañana, yo el juez presente mande á los medidores nombrados pongan pa. las medidas del terra de aumento del rancho de Aptos, del S'r Rafael Castro se comenso la medida teniendo el cordel del S. W. hasta llegar terreno de lo cuatro leguas, rumbo N. N. del palo seco y el encino donde se medio una legua, y dos mil varas comprendido desde ranco orilla del mar. En seguida de lo ancho Na. E. se medio tres mil varas ha esta comprenien con el rancho de San Andres, declarando á los d'hos medidores este

terreno aumento de rumbo antes Don Rafael Castro, y para constancia lo firmaron con migo ass'a.

JUAN JOSE CASTRO,
MIGUEL LOYCHI,
INO. CASTRO.

En el referido rancho Aptos en la f'ha C. Don Rafael Castro, de la villa de Branciforte, acompañando del juez, d'to juez acompañando los testigos de ass'a y Don Rafael Castro, qe. en virtud de haber medido aumento el terreno de este rancho segun consta en las diligencias anteriores tomara la verdadera, corporeal y real posecion del espresado aumento de terreno por una legua, y dos mil varas de longitud y latitud tres mil varas á esto en compasse con el rancho de San Andres, segun la orden se me dio espedido solo nueve de Nbre., de 1840. Entro y paseo por ella, arranco ramas, yerbas, esparcio puñadas de terra y tiro piedras por cuatro partes de viento é hizo otras seremonias, acto de posecion del aumento en señal de lo que dijo tomara de d'ho terreno de aumento y mando al citado juez que desde lo tomaran y reconoceran por verdadero señal y posedor de ella y de sus derechos; por mi el repetido le fuese en todo una constancia lo qe. a entera conformidad con los testigos de ass'a. Con quienes en receptoria á falta—

[*For map see original, page* 45.]

—de escribano publico, qe. no lo hay segun derecho, doy fée.

JUAN ROBLES,
Juez de Santa Cruz.

Ass'a: JUAN JOSÉ CASTRO,
MIG'L LOYCHI,
INACIO CASTRO.

En la f'ha se devolvio este espediente al interesado con tres fojas utiles. ROBLES.

Filed in office, Aug. 13th, 1853.

GEO. FISHER, *Sec'y.*

Translation of Grant.

Seal first, Six Dollars.

Authorized provisionally by the administration of the maritime port of Monterey, for the years eighteen hundred and thirty-three and eighteen hundred and thirty-four.

FIGUEROA,
JOSE RAFAEL GONZALES.

José Figueroa, General of brigade of the Mexican national armies, Commandant general, inspector, superior political chief of Alta California:

Whereas, the citizen Rafael Castro has, for his and his family's benefit, applied for the land known by the name of De Aptos, bounded by the woods, the rancho of the citizen Joaquin Castro, the mountains and the place Shoguel, having first taken the steps and preliminaries relating thereto, as settled by the laws and regulations; exercising the powers conferred upon me by decree of this day, in the name of the Mexican nation, I have granted him the said land, declaring it his property, the present letters extending said concession in entire conformity to law, and without danger to the common good of the inhabitants of the town of , in respect to pasture, water, wood, timber, &c., and subject to the payment of the tax which may be imposed, should it prove to belong to the threshing-grounds of the said town of , where its boundaries are determined, reserving the approval or disapproval to the most excellent territorial deputation and of the supreme government, and under the following conditions:

1st. That he submit to the regulations established for the distribution of vacant lands, and meanwhile, neither the beneficiary nor his heirs can partition or alienate that which is granted, nor impose rent, bond, trust, mortgage or burden upon it, even though it be for pious purposes, nor can he sell it in mortmain.

2d. He may fence it without injury to the crossings, woods and servitudes; he may enjoy it freely and exclusively, destining it to the use and cultivation which best suits him; but within a year at the most he shall build a house, which shall be inhabited.

3d. When the property is confirmed to him, he shall ask of the respective judge to give him juridical possession, in virtue of this dispatch, by which the boundaries shall be marked out; in the limits of which he shall place, in addition to the landmarks, fruit trees or forest trees, of some utility.

4th. The land granted is of the area or superficie of one league square, a little more or less, as explained in the map accompanying this espediente. The judge who gives the possession will have it measured, according to the ordinance for fixing boundaries; the surplus, if any remains, reverting to the nation for its own uses.

5th. If he contravene these conditions he shall lose his right to the land, and it shall be denounceable by another.

Wherefore I decree, that the present serving him as a title and holding it firm and valid, record be taken in the corresponding book, and this be delivered to the interested party, for his protection and other purposes.

Given at Monterey, the 16th of November, 1833.

José Figueroa, gen., of brigade, com. gen., inspector and superior political chief of the ter. of Alta California, thus ordered, decreed and confirmed, which I attest.

JOSE FIGUEROA,
AGUSTIN V. ZAMORANO.

It agrees literally with the original, from which the present testimony is copied for the protection of the interested party, in Monterey, June 18th, 1834; the citizens Bernardo Navaretto and Bonifacio Madagada, of this vicinity, being witnesses. In testimony of the truth.

JOSE FIGUEROA.
AGUSTIN V. ZAMORANO, *Sec'y.*

Filed in office, Feb'y 24th, 1833.

GEO. FISHER, *Sec'y.*

The grant and approval translated separately.
[SEAL.] From page 7th.

To the Constitutional Alcalde:

The citizen Rafael Castro, of this district, (represents) before you, that having obtained a proper grant of the tract of land known by the name of Aptos, I apply to you to be pleased to give me juridical possession, agreeably to the prescription in article 4th of the deed of grant to said land, issued out on the 16th of November last year, which I duly accompany, together with the respective confirmation, that they may serve for the desired end. Wherefore I pray you to be pleased to put me in possession, as asked for, whereby I shall receive justice.

RAFAEL CASTRO.

Branciforte, 12th of August, 1834.

In the town of Branciforte, on the 13th of August, 1834. In consequence of the foregoing solicitation, I, the justice, will proceed to the measuration, marking of the boundaries and judicial possession prayed for by the interested party to this expediente, designating for its execution the fourteenth day of August, for which day the bordering land-owners will be summoned to appear. Thus did I, the said judge of the 1st instance, decree, order and sign, with the attesting witnesses, with whom I act as delegate judge, in want of a notary public, according to law. I attest.

JOSE ANTONIO BOLCOFF.

Ass: JOAQUIN CASTRO.
MIG'L CASTRO.

On the same day, Rafael Castro was notified of the foregoing decree, and being acquainted therewith, he declared that he had heard it and that he accepted service, and he signed with me and the assistants in due form. I attest.

JOSE ANTONIO BOLCOFF,
RAFAEL CASTRO.

Ass: JOAQUIN CASTRO,
MIG'L RAMIREZ.

On the same day, the summons ordered in the foregoing decree was made out, and in witness thereof I subjoined my flourish.

(Flourish.)

On the Rancho Aptos, the 14th of August, 1834. In compliance with the decree of to-day's date, the citizens Joaquin Castro and Martino Castro, bordering land-owners assembled, being summoned for the measuration, making of boundaries and possession, I appointed as measurers the citizens Rafael Robles and Juan José Castro, who, after a previous acceptance and oath, will proceed to the discharge of their office. Thus did I, the alcalde, decree, order and sign, with the attesting witnesses.

JOSE ANTONIO BOLCOFF.

Ass: JOAQUIN CASTRO,
MIG'L RAMIREZ.

On the same day, the bordering land-owners were notified of the foregoing decree, and having had an understanding thereof, they said they had heard it, and they subscribed.

BOLCOFF,
MARTINO CASTRO. ⋈

Ass: RAFAEL ROBLES,
JUAN JOSE CASTRO.

On the same day and on the same rancho of Aptos, the citizens Robles and Juan José Castro, measurers, were notified of the foregoing decree, and having had an understanding thereof, they said that they did accept and accepted said office of measurers, and they swore by God and the cross to exercise it faithfully and lawfully, to the best of their understanding and knowledge, without deceit or fraud against any person; and they signed with me and the attesting witnesses.

BOLCOFF,
RAFAEL ROBLES,
JUAN J. CASTRO.

Ass: JOAQUIN CASTRO,
MIG'L RAMIREZ.

Thereupon, in presence of me, the said alcalde, the measurers took a line, and with a usual Mexican vara measure, holding it in the hand, they measured off fifty varas, wherewith to make the said measurement; and to attest it, I subjoined my flourish.

(Flourish.)

On the same rancho of Aptos, on the day aforesaid, at about nine o'clock in the morning, I, the present judge, ordered the appointed measurers to set about the measurements of the land they are to accomplish for Rafael Castro; and having found a course, they commenced the mensuration, holding the line to west till reaching the ground from east, in which place they measured five thousand varas, completed before reaching the boundaries of Joaquin Castro, in which place was put a landmark; and immediately from south to north the same measure of five thousand varas, in which place it was arranged to put up a landmark in a "portezuelo de los cuatro," in each (place) the plot

being drawn in the same form as the land was measured, the said measurers declaring that there is a sitio de ganado mayor besides (tambien). In attestation whereof the measurers signed with me.

JOSE BOLCOFF.

RAFAEL CASTRO,
JUAN JOSE CASTRO,
JOAQ'N CASTRO,
MIG'L RAMIREZ.

On the same rancho de Aptos, on the day aforesaid, the citizen Rafael Castro, resident of the town of Branciforte, accompanied by the judge of the 1st instance of said place and witnesses, said Rafael Castro declared that by virtue of the lands of this rancho having been measured out to him, as is shown in the foregoing acts, he took the true corporal and real possession of said one square league of land, (N. B.,) less one league in breadth in square superficies according to the title-deed of grant he possesses, and which he obtained on the 16th of November, last year, of the superior political chief, in exercise of the powers vested in him by decree of the 31st of January last, and according to the approval by the excellent Territorial deputation given on the 17th of May, this year. He entered on it, and walked about it; pulled off branches and grass; spread about handfuls of earth, and threw stones to the four sides of the winds; and performed other ceremonies and possessory acts, in token of which he declared to take, and did take, said land; and the said judge of the 1st instant ordered, that from thenceforward he should be held and acknowledged as true possessor of it. Of all which said Rafael Castro requested, that, for the sake of memory and preservation of his rights in future, I, the aforesaid judge, would make a report and attestation, which I hereby do under my authority, with the attesting witnesses, with whom I act as delegate judge for want of a notary public, as there is no such one, according to law. I attest.

JOSE ANTONIO BOLCOFF.

JOAQUIN CASTRO,
MIG'L RAMIREZ.

On the same day this espediente was returned to the interested party, consisting of 7 folios, in attestation of which I subjoin my flourish.

(Flourish.)

In consequence of the reports taken relative the petition of Don Rafael Castro for an extension of the land Autos granted him, the measurements can be extended to the boundaries of the place called San Andres, in the locality of "El Palo Seco, El Onero," and the land intermediate up to the point called Los Cuatro Leagues; and you will therefore proceed to make the corresponding measurement, annexing it to that already made him in the possession you gave said Rafael Castro, as being agreeably to the decree appearing in his instance, which

is attached to the expediente concerning the matter. God and liberty! Monterey, 9th of November, 1840.

To the Justice of the Peace of this place:

I, Rafael Castro, in due course represent before you, that the Government having ordered that the land I asked for be annexed to my rancho, I pray you to proceed to give me the possession, and to measure out to me the extension of the land referred to, designating the boundaries to me, by which act I shall receive justice and favor. I swear.

Santa Cruz, November 16th, 1840.

RAFAEL CASTRO.

SANTA CRUZ, 18*th*, 1840.

Conformable to the petition of the interested party, and in conformity with the order of the Government dated this year and month, I will proceed to the possession and marking of boundaries due to D. Rafael Castro, for which purpose the bordering land-owners will be summoned, appointing the 27th day of the month for the possession. Thus I ordered, decreed, and signed. I attest.

JOSE BOLCOFF.

On the same day, Rafael Castro being present, he was notified of the foregoing decree, and, being acquainted therewith, said that he had heard it, and that he admits of service, and he signed with me and the assistants in due form.

JOSE BOLCOFF.

Ass'a: JUAN JOSE CASTRO,
MIG'L LOYCHI,
RAFAEL CASTRO.

On the same day the summons ordered in the foregoing decree was made out. In attestation whereof I subjoined my flourish.

(Flourish.)

On the rancho de Auctos, the 27th of November, 1840, in compliance with the decree of to-day's date, the Citizen Juan José Castro and Miguel Lodge, bordering land-owners to this rancho, assembled, having been summoned for the mensuration and marking of boundaries and possession. I appointed for measurers Juan José Castro and Miguel Lodge, who, after a previous acceptance and oath, will proceed to the discharge of their office. Thus did I, the judge, decree, order, and sign, with the attesting witnesses.

JOSE BOLCOFF.

Measurers: JUAN JOSE CASTRO,
MIGUEL LODGE.
Ass.: IGNO. CASTRO.

On the same day, and on the aforesaid rancho Autos, Juan José Castro and Miguel Lodge, measurers, were notified of the foregoing decree. Having heard, and understanding thereof, they said that they

accept, and do accept, said office of measurers; and they swore by God and the sign of the cross to exercise it faithfully and lawfully, to the best of their knowledge and understanding, without deceit or fraud against any person; and they signed with me before the attesting witnesses.

J. BOLCOFF.

Ass.: JUAN JOSE CASTRO,
MIGUEL LOYCHE,
IGNACIO CASTRO.

Thereafter, in the presence of me, the said judge, the said measurers took a line, on which, with a usual Mexican vara measure, holding it in the hand, they measured off fifty varas, wherewith to perform the said measurement.

To attest it I subjoined my flourish.

(Flourish.)

On the same rancho Autos, and on the day aforesaid, at about ten o'clock in the morning, I, the present judge, ordered the appointed measurers to set about the measurement of land in addition to the rancho de Autos belonging to Don Rafael Castro. The measuration was commenced, keeping the line from southwest till reaching the land called Las Cuatro Leagues, course northwest from El Palo Seco and El Incero, in which place they measured one league and two thousand varas, including the bank on the sea-shore. Thereafter in breadth west to east they measured three thousand varas, up to where the land is joined with the rancho del Andres, the said measurers declaring this land to be the addition to the rancho de Autos belonging to Rafael Castro. In attestation whereof they signed with me.

(Flourish.)

Ass'a: JUAN JOSE CASTRO,
MIGUEL LOYCHE,
IGNACIO CASTRO.

On the aforesaid Rancho Autos, on the same day, Don Rafael Castro, of the town of Branciforte, accompanied with the same judge and the attesting witnesses, said, that in virtue of the measurement of the addition of land to this rancho, according to the foregoing acts, he took the true corporeal and real possession of said addition of land by one league and two thousand varas in length, and three thousand varas in breadth, up to where it joins the rancho del Andres, according to the order given by the excellent sir governor to me, dated 9th of November, 1840. He entered on it, walked about it, pulled off branches and grass, spread about handfuls of earth, threw stones to the four sides of the wind, and performed other ceremonies and possessory acts as to the addition of land; and the aforesaid judge ordered, that from thenceforward it should be held and acknowledged for a valid sign; and he, for a true possession thereof, and for the preservation of his rights, he requested me, the said judge, to put on record and make an

attestation, which I did, under my authority, with the attesting witnesses, with whom I act as delegate judge for want of a notary public, and there is no such one, according to law. I attest it.

JOSE BOLCOFF,
Justice in Santa Cruz.
MIGUEL LOYCHI.

JUAN CASTRO,
IGNACIO CASTRO.

On the same day this espediente was returned to the interested party, consisting of three full folios. Bolcoff, (in the margin of the plot,) four thousand varas in breadth. The 9th of November, 1840, the departmental government granted an addition of land to D. Rafael Castro, bordering on the highway, and on Las Hermandes, and on Los Castros, in which place a landmark was put up. I, the justice of the town, who gave the possession of the addition of land, attest it and subscribe.

JOSE BOLCOFF.

Filed in office, Feb. 1854.

GEO. FISHER, *Sec'y.*

Opinion.

RAFAEL CASTRO
vs.
THE UNITED STATES. } 620.

For the place called Aptos, situated in Santa Cruz county, containing

A grant is given in evidence, made to the present claimant, as grantee, by Governor José Figueroa, dated November 16th, 1833, accompanied by the testimonial of the approval thereof by the Territorial deputation, on the 17th May, 1834.

The land granted is situated on the sea-shore, and the place solicited is described in the grant as bounded by the woods, the rancho of citizen Joaquin Castro, the mountains and the place Shoguel, of which one square league is granted to be located by juridical measurement. Juridical possession was given on the 14th day of August, 1834. The measuration was commenced by the officer, giving the possession on the western side of the lands described in the grant, and the league of land thus located, not extending to the eastern limits of the land described in the grant, left a narrow parcel of land on that side, between the premises thus assigned to the claimant and the land of his brother, Joaquin Castro. On the 13th of June, 1840, the claimant again applied to the governor, and setting out the facts, solicited a grant of the remainder. This was conceded to him by decree of Manuel Jimeno, acting governor, dated November 8, 1840; and a document issued by the governor on the next day attests the grant to Castro, and directs juridical possession to be given to him, extending his boundaries so as to include the land to the rancho of his brother Joaquin. Juri-

dical possession was made accordingly by the same alcalde who gave the first possession. The boundaries of the premises are tolerably well defined in the documents, and are fully explained by the maps attached to the testimonial of the two acts of juridical possession, and by the deposition of José Bolcoff, the officiating judge; there seems to be no difficulty in reference to the location and boundaries of the land. By the depositions filed in the case, it is proved that the claimant went on the premises in 1832, built a house, lived there with his family, and cultivated portions of the land. In 1834 he built other houses on the place, and he continued to occupy and cultivate and improve the land ever since, making it the residence of himself and the other members of his numerous family. The place is said to be in a high state of improvement, much of the land being under cultivation. The place has upon it several houses, with gardens and orchards, and large herds of cattle.

The proof in the case establishes the right of the claimant to a title to the land, and decree of confirmation will be entered. Confirmed.

Filed in office, May 16th, 1854.

GEO. FISHER, *Sec'y.*

Decree.

RAFAEL CASTRO
vs.
THE UNITED STATES.

In this case, on hearing the proof and allegations, it is adjudged by the commission that *that* the claim of the petitioner is valid, and it is therefore decreed that the same be confirmed. The land, of which confirmation is hereby made, is situated in Santa Cruz, and is known by the name of Aptos, and is the same premises now occupied by Rafael Castro, and bounded and described as follows, to wit:

Commencing at the sea-beach at the mouth of a gulch called El Sanjon de Borregas, thence running in a southeastwardly direction along the sea-beach one league to a live-oak post, placed for a monument when the judicial possession of the premises was given to said Rafael Castro in 1834; thence at right-angle with the said line along the beach and in a northeastwardly direction one league to a live-oak stake placed in like manner as a monument; thence in a northwesterly direction, parallel to the said line along the beach one league to a live-oak stake placed in like manner; and thence in a line parallel to the second line above-mentioned to the place of beginning at the mouth of the gulch above-named, where also a live-oak post was placed for a monument; also, that certain other piece or parcel of land adjoining that above described, and bounded as follows, to wit: Commencing at the southeasterly corner of the tract above described on the sea-beach, and running thence in a southeasterly direction along said beach to the corner of the land known as the rancho of Joaquin Castro, called San Andres; thence northeastwardly along the northwestern line of said

rancho, San Andres, to the land called Las Cuatro Leagues, being one league and two thousand varas, including the bank on the sea-shore; thence in a northwesterly direction to the easterly corner of the parcel of land just above described; and thence by the line of said land in a southwesterly direction to the place of beginning on the sea-beach; the said land being three thousand varas in width, and lying between the tract first above described, and said rancho of San Andres; said two parcels of land containing one and a half square leagues of land, or thereabouts, reference to be had for more perfect description to the grants of the same, the testimonial of juridical possession, and the map which constituted a part of the same, and also the map in the traced copy of the espediente, all of which are on file in this case.

ALPHEUS FELCH,
THOMPSON CAMPBELL,
R. A. THOMPSON,
Commissioners.

Filed in office, May 16th, 1854.

GEO. FISHER, *Sec'y.*

Order.

And it appearing, to the satisfaction of this board, that the land hereby adjudicated is situated in the southern judicial district of California, it is hereby ordered that two transcripts of the proceedings, and of the decision in this case, and of the papers and the evidence upon which the same are founded, be made out, and duly certified by the secretary, one of which transcripts shall be filed with the clerk of the southern judicial district of California, and the other be transmitted to the Attorney General of the United States.

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the private land claims in the State of Cal'a.

I, George Fisher, secretary to the board of commissioners to ascertain and settle the private land claims in the State of California, do hereby certify the foregoing sixty-four pages, numbered from 1 to 64, both inclusive, to contain a true, correct, and full transcript of the record of the proceedings, and of the decision of the said board, of the documentary evidence and of the testimony of the witnesses upon which the same is founded, on file in this office, in case No. 620, on the docket of the said board, wherein Rafael Castro is the claimant against the United States, for the place known by the name of "Aptos."

In testimony whereof, I hereunto set my hand and affix my private seal, (not having a seal of office,) at San Francisco, California, this second day of December, A. D. 1854, and of the independence of the United States of America the seventy-ninth.

GEO. FISHER, *Sec'y.*

UNITED STATES DISTRICT COURT,
Southern District of California.

CLERK'S OFFICE, LOS ANGELES.

I, Charles E. Carr, clerk of the district court of the United States for the southern district of California, do hereby certify that the foregoing sixty-five pages, numbered from 1 to 65, both inclusive, contain a full, true and correct copy of transcript No. 620, filed in this office, wherein Rafael Castro is appellee and the United States are appellants, for "Aptos."

In testimony whereof, I have hereunto set my hand and affixed the seal of said court at Los Angeles, California, this [SEAL.] 19th day of January, A. D. 1856, and of the independence of the United States of America the eighteenth.

C. E. CARR, *Cl'k.*

DISTRICT COURT OF THE UNITED STATES,
Southern District of California.

CLERK'S OFFICE, LOS ANGELES COUNTY.

RAFAEL CASTRO, appellee, ads. THE U. STATES, appellants. } Docket No. 172. Transcript No. 620.

Be it remembered, that on the 19th day of December, A. D. 1854, in the district court of the United States for the southern district of California, the following proceedings were had, to wit: a duly certified transcript of the proceedings and decision of the commissioners to ascertain and settle the private land claims in the State of California, when sitting as a board, in the case wherein Rafael Castro is the claimant against the United States for the place named "Aptos," was received, and filed and docketed with No. 172, and is as follows, to wit:

(Vide page 1.)

LOS ANGELES, *July 2d*, 1855.

In case No. 172, Rafael Castro, for "Aptos," the notice of appeal from the U. S. Attorney General was filed.

(Vide page 3.)

LOS ANGELES, *Oct. 10th*, 1855.

In same case the petition of the United States for review was filed.

(Vide page 3.)

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

LOS ANGELES, *Oct. 10th*, 1855.

In same case the answer of appellee was filed.

(Vide page 4.)

LOS ANGELES, *Oct.* 11*th*, 1855.

In same case the opinion of the court confirming the claim was delivered, and the following decree entered.

(Vide page 5.)

LOS ANGELES, *Oct.* 18*th*, 1855.

In the same case the following order for appeal, on motion of P. Ord, U. S. Attorney, was filed.

(Vide page 5.)

Notice of Appeal.

OFFICE OF THE ATTORNEY GENERAL OF THE UNITED STATES,
WASHINGTON, *7th April*, 1855.

RAFAEL CASTRO
vs.
THE UNITED STATES. } 620.

You will please take notice, that in the above case, decided by the commissioners to ascertain and settle private land claims in the State of California, in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 27th day of January, 1855, the appeal in the district court of the United States for the southern district of California will be prosecuted by the United States.

C. CUSHING, *Attorney General.*

Filed July 2d, 1855.

C. E. CARR, *Clerk.*
By A. H. CLARK, *Deputy.*

Petition of United States for Review.

In the District Court of the United States for the southern district of California.

RAFAEL CASTRO
ads.
THE UNITED STATES. } No. 172.—(Transcript No. 620.)

The petition of Pacificus Ord, attorney of the United States for the southern district of California, for and in behalf of the United States, respectfully represents, that on or about the 24th day of February, A. D. 1853, Rafael Castro petitioned the United States Land Commissioners for the State of California, claiming about one square league of land, in Monterey county, California, called "Aptos." That on or about the 16th day of May, A. D. 1854, the said commissioners confirmed the said claim; that thereafter, to wit, on or about the 27th of January, A. D. 1855, the Hon'ble Caleb Cushing, Attorney General of the United States, received a duly certified transcript of the proceedings, with the evidence and decision of the said commissioners in said cause. That on or about the 19th day of December, A. D. 1854, the

said commissioners filed, or caused to be filed, in this office of and with the clerk of this hon'ble court, a duly certified transcript of their proceedings and decision, with the evidence upon which the same was founded. That, thereafter, to wit, on or about the 2d day of July, A. D. 1855, the said Attorney General of the United States filed, or caused to be filed, with the said clerk a notice of the intention of the said United States to prosecute the appeal in said cause. That the land claimed lies in the southern district of California, and within the jurisdiction of this hon'ble court.

And the said petitioner denies, generally, the validity of the said claim or title of said Rafael Castro.

Wherefore the said petitioner prays, that the said Rafael Castro, or his attorney, may be served with a copy of this petition; and that, after due proceedings had, the said decision of the said commissioners may reviewed, reversed, and set aside, and that the hon'ble court will decree the said claim or title to be invalid; with costs and general relief.

P. ORD,
Attorney of the U. S. for the southern district of Cal'a.

Filed Oct. 10th, 1855. C. E. CARR, *Clerk.*

Answer.

United States District Court for the southern district of California.

RAFAEL CASTRO ads. THE UNITED STATES. } No. 172.

The respondent, for answer to the petition filed in this cause, answers and says: It is true, that the land mentioned in said petition and in said transcript of the proceedings before the said Board of Commissioners lies within said southern district of California, and within the jurisdiction of this court.

But this respondent denies that his title to the said lands is invalid, and avers that his title is valid, and prays that the decision of the said board be affirmed, and his title be decreed to be valid.

E. O. CROSBY,
Of Counsel for Respondent.

Filed Oct. 10th, 1855.

C. E. CARR, *Clerk.*

Decree.

THE UNITED STATES, appellants, vs. RAFAEL CASTRO, appellee. } No. 172.—Aptos.

DISTRICT COURT OF THE UNITED STATES,
Southern district of California.

This cause coming on to be heard, at a special term of this court, on an appeal from the final decision of the commissioners to ascertain and

settle private land claims in the State of California, under the act of Congress approved March 3d, 1851, upon the transcript of the decision and proceedings, and the papers and evidence on which said decision was founded; and it appearing that said transcript has been duly filed according to law, and counsel for the respective parties having been heard: It is ordered, adjudged, and decreed, that the decision of the said commissioners be affirmed, and that the claim of the said Rafael Castro to the land described in the grant in this case is a good and valid claim, and the same is hereby confirmed to the extent of one and a half square leagues: Provided, that the said quantity of one and a half square leagues be contained within the limits called for in said grant and maps to which it refers, but if there be less than said named quantity, then the claim of the said appellee to said less quantity is hereby confirmed.

ISAAK S. K. OGIER,
U. S. District Judge for the southern district of Cal'a.

Order for Appeal.

In the U. States District Court for the Southern District of California.

Special term, Sept., 1855.—Los Angeles.

RAFAEL CASTRO, app'ee, ads. THE UNITED STATES, app'ts. } No. 172—Transcript No. 620.

On motion of P. Ord, attorney of the United States for the southern district of California, it is ordered by the court, that an appeal be granted the United States to the Supreme Court of the United States, from the judgment of this court against the United States in the above entitled cause, rendered on or about the 11th day of October, A. D. 1855.

P. ORD,
U. S. District Attorney.

Filed October 18th, 1855.

C. E. CARR, *Clerk.*
By J. W. ROSS, *Dep.*

UNITED STATES DISTRICT COURT,
Southern district of California.

CLERK'S OFFICE, LOS ANGELES.

I, Charles E. Carr, clerk of the district court of the United States for the southern district of California, do hereby certify the foregoing six pages, numbered from 1 to 6, both inclusive, to contain a true, correct, and full transcript of the record of the proceedings, and of the decision of the said court, of the documentary evidence, and of the testimony of witnesses upon which the same is founded, on file in this office,